

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

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|-----------------|---|----------------------------|
| VB ASSETS, LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | C.A. No. 24-1368-MN |
| v. |) | |
| |) | JURY TRIAL DEMANDED |
| APPLE INC., |) | |
| |) | |
| Defendant. |) | |

**REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEFENDANT APPLE INC.'S
PARTIAL MOTION TO DISMISS**

Pursuant to Federal Rule of Evidence 201, Defendant Apple Inc. (“Apple”) respectfully requests that the Court take judicial notice of the document attached hereto as Exhibit A in consideration of its Partial Motion to Dismiss Plaintiff VB Assets, LLC’s First Amended Complaint.

Exhibit A is a true and correct copy of a list of patents and/or publication numbers assigned to “VoiceBox” as found on the United States Patent and Trademark Office’s (“USPTO”) Patent Public Search Basic website located at <https://ppubs.uspto.gov/pubwebapp/static/pages/ppubsbasic.html>. Patents published on or before September 30, 2014, have been highlighted in yellow.

Pursuant to Federal Rule of Evidence 201, a court “may judicially notice a fact that is not subject to reasonable dispute because it: (1) is generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b). A court “must take judicial notice if a party requests it and the court is supplied with the necessary information.” Fed. R. Evid. 201(c)(2). A court “may take judicial notice at any stage of the proceeding.” Fed. R. Evid. 201(d).

“On a motion to dismiss the Court is free to take judicial notice of certain facts that are of public record if they are provided to the Court by the party seeking to have them considered.”

Diceon Elecs., Inc. v. Calvary Partners, L.P., 772 F. Supp. 859, 861 (D. Del. 1991). A court may take judicial notice of information “made publicly available by government entities.” See *Daniels-Hall v. Nat’l Educ. Ass’n*, 629 F.3d 992, 998 (9th Cir. 2010). This includes documents recorded by the USPTO. See *Kaempe v. Myers*, 367 F.3d 958, 965 (D.C. Cir. 2004) (determining that USPTO documents were “public records subject to judicial notice”); *Vitek Sys., Inc. v. Abbott Lab’s*, 675 F.2d 190, 192 n.4 (8th Cir. 1982) (holding that the court may take judicial notice of PTO filings); *Morton & Bassett, LLC v. Organic Spices, Inc.*, 2016 WL 4608213, *4 (N.D. Cal. Sept. 6, 2016) (finding documents publicly available through the USPTO website judicially noticeable); see also 37 C.F.R. § 1.12 (2012) (stating that PTO assignment records are open to public inspection).

Exhibit A comprises publicly available results from a patent search database provided by the USPTO that are not subject to reasonable dispute because they are capable of accurate and ready determination by resort to a source whose accuracy cannot reasonably be questioned, namely, the USPTO Patent Public Search Basic online database.

Therefore, Apple respectfully requests that the Court grant this request and take judicial notice of the document attached hereto as Exhibit A.

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12161877 / 12209.00060

Respectfully submitted,

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